

IN THE STATE OF MINNESOTA

DISTRICT COURT

FOURTH JUDICIAL DISTRICT

ADRIAN JOHNSON Plaintiff	BUERKLE ACURA Defendants
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Plaintiff's Opposition to Defendants' Motions to Dismiss

COMES NOW Plaintiff Adrian Johnson, proceeding pro se as a single, Black, transgender individual navigating this action alone, and respectfully opposes the Motions to Dismiss filed by Defendants Buerkle Acura, Tom Groves, Tyler Koens, and American Honda Finance Corporation (AHFC, d/b/a Acura Financial Services) on September 26, 2025, and October 1, 2025, pursuant to Minn. R. Civ. P. 12.02(e). Plaintiff asserts that her Complaint for Declaratory Judgment under Minn. Stat. § 555.01 states valid claims, as the alleged lease agreement is fraudulent and void, creating a justiciable controversy. The motions should be denied for the reasons set forth below.

1. **Background and Overview:** This action seeks declaratory judgment to reclaim the insurance proceeds for a 2024 Acura ZDX, purchased from Buerkle Acura, alleging fraud in the lease and title process. Key evidence includes Power of Attorney forms rejected by VITU, LLC, three times for mismatched signatures, a falsified birthday (11/5/1990) on the Iowa Department of Transportation registration, and Buerkle Acura improperly signing as Honda/Acura Financial Services on the odometer statement and lease documents without authority. These acts constitute federal odometer fraud under 49 U.S.C. § 32701 et seq. and state violations like forgery (Minn. Stat. § 609.63). Defendants filed these motions while Plaintiff was illegally incarcerated, attempting to advance the case in her absence, further compounding the harm.

2. **Standard of Review:** In reviewing a motion to dismiss, the Court accepts the complaint's facts as true and draws reasonable inferences in Plaintiff's favor. *DeRosa v. McKenzie*, 936 N.W.2d 342, 346 (Minn. 2019). Dismissal is proper only if no facts could support relief. *Id.* For declaratory judgment, a justiciable controversy requires a bona fide legal interest affected prejudicially. *Vogt v. Juliar*, A18-1944, 2019 WL 2415175, at *2 (Minn. Ct. App. June 10, 2019). The lease, referenced in the complaint, may be considered, but its fraudulent nature undermines Defendants' arguments.

3. Invalidity of Defendants' Points:

- **Buerkle Acura, Groves, and Koens' Motion:** The memorandum (filed October 1, 2025) claims no controversy exists because the lease shows possession without ownership, entitling the assignee to proceeds (Memo at 2-4). This ignores the fraud—Buerkle's unauthorized signatures, VITU rejections, and Iowa discrepancies—voiding the assignment. Their affidavit (McNulty) asserts the lease's validity without addressing missing POA forms or registration errors, which they possess but withhold.

- **AHFC's Motion:** The September 26, 2025, memorandum argues the same, relying on Todd Bayuk's declaration (Ex. A) to validate the lease, despite Bayuk's lack of involvement in its creation (Memo at 5-6). Neither addresses the fraud Plaintiff alleges, which they know from their records. These points fail as the lease's irregularities, not ownership, drive the dispute.

4. **Defendants' Knowledge and Withholding:** Defendants and counsel have documents proving fraud—VITU rejections, Iowa DMV submissions differing from court filings, and internal records of the odometer statement. Yet, they submit only Plaintiff's possession evidence, ignoring POA forms, registration errors, and their own fraudulent signatures. This selective disclosure boxes Plaintiff into a corner, forcing her to fight for what they already hold, suggesting complicity to delay and exhaust her.

5. **Illegal Filings During Incarceration:** Defendants filed these motions while Plaintiff was illegally detained, knowing she couldn't respond, a tactic to move the case forward unfairly. This amplifies the harm to a single, Black, transgender individual acting pro se, highlighting potential discriminatory intent under the Minnesota Human Rights Act (Minn. Stat. § 363A.01) and ADA.

6. **Potential Criminal Violations:** The fraud—unauthorized signatures, altered forms—exposes Defendants to criminal liability (e.g., 49 U.S.C. § 32701, Minn. Stat. § 609.63). Counsel's motions, ignoring this, risk subjecting clients to federal and state penalties, indicating a strategy to drag proceedings, hoping Plaintiff gives up.

7. **Attorneys' Complicity and Lack of Candor:** Under Minnesota Rules of Professional Conduct Rule 3.3, attorneys must exhibit candor to the tribunal, disclosing material facts they know. Defendants' counsel, possessing fraud evidence, instead argues the lease's validity, omitting POA issues and DMV discrepancies. This breaches their duty, suggesting complicity to protect clients and profit, especially given past instances where similar attorney tactics targeted Plaintiff.

8. **RICO Allegations and Profiteering:** This pattern—attorneys for Buerkle, AHFC, and others defending fraud across multiple cases, profiting from Plaintiff's pain—may violate RICO (18 U.S.C. § 1961). They turn her suffering into a business, delaying clear fraud cases for fees, a practice Plaintiff has faced before. As a single, Black, transgender individual, she believes this targets her vulnerability, and she intends to pursue civil RICO in federal court against these attorneys for withholding evidence and racketeering.

9. Request for Referral to Disciplinary Authorities

Plaintiff respectfully requests that the Court consider referring defense counsel to the Minnesota Office of Lawyers Professional Responsibility for potential violations of the Minnesota Rules of Professional Conduct, including:

- Rule 3.3 (Candor Toward the Tribunal): By failing to disclose material facts within their possession that directly relate to the validity of the disputed lease and registration documents, including rejected Power of Attorney forms and altered DMV records.
- Rule 8.4 (Misconduct): By knowingly submitting or relying on documentation that appears fraudulent or forged and by advancing arguments premised on concealment of material evidence.
- Rule 4.1 (Truthfulness in Statements to Others): If applicable, for any false or misleading statements made during off-the-record negotiations or filings.
- Where counsel possesses documentation confirming Plaintiff's allegations of fraud (including VITU rejection history and mismatched registration filings) yet omits such evidence in support of dismissal, such conduct undermines the integrity of judicial proceedings and warrants professional review.

10. **Relief Sought:** Deny the motions, as fraud creates a genuine dispute. Compel disclosure of all records, impose sanctions for bad faith, and consider the discriminatory and criminal implications in further proceedings.

11. Refer defense counsel to the Office of Lawyers Professional Responsibility for possible ethical violations related to candor, misconduct, and concealment of material documents.

Respectfully submitted,

Respectfully submitted,

/s/ Adrian Johnson

Dated 10.24.25

Pro Se Plaintiff

5123 W 98th St. PMB 1462

BLOOMINGTON, MN 55437
(475)-261-3946

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I, Adrian Johnson hereby verify that I performed service on the following parties and their attorneys via electronic mail through the Minnesota Judicial Branch's approved e-filing system and/or email, as permitted under Minnesota Rules of Civil Procedure and the local eFiling guidelines:

1. Attorney William McNulty and Nicholas N Rapisarda

Arthur Chapman Law Firm

wjmcnulty@arthurchapman.com nnrapisarda@arthurchapman.com
blkelsey@arthurchapman.com nmkvarnlov@arthurchapman.com
lwilhelm@arthurchapman.com

2. Cory Olson

Anthony Ostuland Law Firm

colson@anthonyostuland.com

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I declare under penalty of perjury under the laws of the State of Minnesota that the foregoing is true and correct.

Dated: 10.27.24

Signed: 